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ABSTRACT

This study explored how and why special education policy issues were treated as they were in the formulation of Pennsylvania's charter school law, Act 22 of 1997. The qualitative study utilized formal and informal interviews of state policymakers, review of documents, review of archival records, and participant observation. Findings indicated a philosophical mismatch between two educational concepts: charter schools (a deregulated movement) and special education (seen as an over-regulated area). Among 15 specific findings were the following: (1) policymakers failed to anticipate the paradoxical outcome of making charter schools autonomous; (2) special education issues were neglected because special education experts were not called upon to contribute to the design of Act 22 of 1997; (3) policymakers feared that the charter school bill might be derailed if much time or exposure were given in the debate to the controversial matter of special education; and (4) the shift in competing values away from an emphasis on equity to a focus on liberty (choice) and efficiency contributed to the neglect of special education issues. The paper urges Pennsylvania policymakers to review and clarify issues concerning the Act's special education funding formula, admission of children with disabilities, transportation, and teacher certification. (Contains 25 references.) (DB)

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THE POLITICS OF SPECIAL EDUCATION POLICY IN CHARTER SCHOOL LEGISLATION: LESSONS FROM PENNSYLVANIA

By

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THE POLITICS OF SPECIAL EDUCATION POLICY IN CHARTER SCHOOL LEGISLATION: LESSONS FROM PENNSYLVANIA

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This study explored how and why special education policy issues were treated as they were in the formulation of Pennsylvania's charter school law. The study's general analytic strategy, modeled after Yin's (1994) suggestions, was reliance on eight theoretical propositions, or predicted explanations, to help organize the case study and to focus attention on certain data gathered from formal and informal interviews of state policymakers, review of documents, review of archival records, and participant observation. The findings reflect a philosophical mismatch between two educational concepts: charter schools – a deregulated movement – and special education – seen as an over-regulated area.

Introduction

Charter schools – one of the most vibrant education reforms in the United States – are facing problems with special education. Numerous authors have pointed the finger of blame at weaknesses in the states' charter school laws themselves. While this appears to be the case, no one has attempted to put forth a research-based explanation for such weaknesses. The study described in this paper attempted to explain how and why special education policy is formulated in a state's charter school law, using Pennsylvania as a case study.[1]

The issue of charter schools and special education has begun to generate national attention, as evidenced by a growing body of literature pointing out the problems which charter schools face when trying to comply with federal laws and regulations governing children with disabilities. The essence of the issue seems to be, as Heubert (1997) points out, a "paradox."

> State laws that seek to free charter schools from state and local legal constraints may have the unforeseen, unintended, and paradoxical effect of increasing charter schools' obligations under federal disability law (p. 309).

Ironically, the more independent in governance that charter schools are made by well-intentioned state policymakers, the more charter schools become independently subject to the complex requirements of federal laws and regulations governing special education – requirements which were never intended to be met by such small entities with limited resources and no taxation power. This study attempted to unravel this paradox by explaining the politics behind the crafting of special education provisions in Pennsylvania's charter school law, Act 22 of 1997.

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[1] This paper was prepared from the author's doctoral dissertation at the Pennsylvania State University for presentation at the AERA 2000 Annual Meeting in New Orleans.

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This paper begins with a brief description of the need for and purpose of the study. After an explanation of the study's methodology, including how limitations were addressed, the significance of the study is described. Next, findings related to the study's propositions are discussed in terms of their importance and consistency with theory or previous findings in the literature, and alternative explanations are offered. This is followed by a review of the study's propositions which were not supported by the data. Other findings – that is, findings of possible significance which were not predicted by the study's propositions – are listed and discussed. Finally, suggestions for policy, practice, and further research are provided.

Need for the Study

The intersection of charter schools and special education requirements represents a paradoxical development in school reform. Proponents of charter schools zealously advocate for the creation of charter school laws which provide for the maximum amount of independence and autonomy for charter schools. However, the more independent and autonomous charter schools become, the more they are subjected to the burden of the complex requirements of federal laws and regulations governing special education and children with disabilities.

This study was needed in order to understand this paradoxical development in school reform. The issue of special education at charter schools has been largely ignored, but recent national attention given to the issue may increase the need in the future for charter school laws to deal more specifically with how charter schools will serve children with disabilities. For example, at the April 14-17, 1999 Annual Convention of the Council for Exceptional Children (CEC) held in Charlotte, N.C., CEC is quoted as saying:

> Too many charter schools do not adhere to the Individuals with Disabilities Education Act. Many charter schools are unknowledgeable about special education law. And, in a few cases, charter school admissions requirements keep students with disabilities out ("Special ed advocates call," 1999).

As increased attention is given to this matter, state policymakers will need to understand the politics involved in balancing the necessary special education policies against legislative provisions seeking to give charter schools the freedom they need to improve educational results for all children.

Purpose of the Study

The purpose of this study was to explore and to explain the politics behind crafting the policies in Pennsylvania's charter school law regarding special education: How did those policies get there, and why? While a number of authors have pointed to weaknesses in state charter school legislation as causing problems with special education, a review of the literature revealed no specific research on the questions at hand. Consequently, this study was exploratory, and may have been the first of its kind to investigate this particular phenomenon.

Methodology

Introduction

This section presents the methodology of the study. First, the design of the study is described. The study's questions and propositions are discussed, followed by identification of the unit of analysis, logic linking the data to the propositions, and criteria for interpreting the findings. Next, the method is described, including sections on data collection and data analysis.

Design

This section describes the design of the study. A case study method was used, following a research design built around five components which are especially important for case studies (Yin, 1994). The method and the design influenced each other. For clarity, the design will be discussed first, since it reveals the core plan of the study.

According to Yin (1994), a research design is basically a plan, or blueprint, which describes how the researcher will get from an initial set of questions to a set of answers. "A research design is the logic that links the data to be collected (and the conclusions to be drawn) to the initial questions of a study" (Yin, 1994, p. 18). The design deals with at least four problems: 1) what questions to study; 2) what data are relevant; 3) what data to collect; and, 4) how to analyze the results (p. 20). In developing a design for a case study, Yin (1994) provides these important components: 1) a study's questions; 2) its propositions, if any; 3) its unit(s) of analysis; 4) the logic linking the data to the propositions; and, 5) the criteria for interpreting the data. Each of these components will be discussed in detail, providing, in essence, the research design.

Study Questions

The central purpose of this study was to explore how and why special education policy issues were treated as they were in the formulation of Pennsylvania's charter school law, Act 22 of 1997. Thus, the central research questions of this study were:

1) What were the key issues in the overall debate over Act 22 of 1997?
2) How were the issues involved with special education policy treated in formulating Act 22 of 1997?
3) Why was special education policy treated as it was in Act 22 of 1997?

Propositions of the Study

The central research questions led to the decision to pursue a case study of Act 22 of 1997. Propositions move a case study in the right direction by pointing to what should be studied. The following propositions, in order of their speculated significance from most to least significant, were derived from the review of relevant literature and were intended to explain how and why special education policy issues were treated as they were in Act 22 of 1997.

Proposition 1) Policymakers failed to anticipate the paradoxical outcome of making charter schools autonomous.

As Heubert (1997) points out, making charter schools autonomous actually may increase their duties under federal disability law. As the Special Education Adviser for Policy at the Pennsylvania Department of Education (PDE) during the formulation and initial implementation of Act 22 of 1997, the author participated in a lengthy internal struggle over the ramifications of interpreting Act 22 of 1997 in a way which would make charter schools independently responsible for special education. Given that struggle, it may be that policymakers crafting the legislation were not aware of the special education implications of making charter schools so autonomous. This study gathered data to explore or "test" whether or not policymakers were aware of the implications of autonomy where special education is concerned.

Proposition 2) Special education issues were neglected because special education experts were not called upon to contribute to the design of Act 22 of 1997.

In many states, state policymakers did not involve special education experts in crafting charter school legislation (Schnaiberg, 1997a). This study gathered data to explore whether or not this was the case in Pennsylvania.

Proposition 3) Special education issues were neglected because policymakers who favored charter schools believed a "stronger" law – one that made charter schools more autonomous – would promote the creation of more charter schools.

Policymakers who advocated for charter schools probably knew that stronger charter school laws result in more charter school activity (Bierlein, 1995; Buechler, 1996). Stronger laws are considered to be those which grant charter schools fiscal, legal, and regulatory autonomy. To overcome the paradox of autonomy identified by Heubert (1997), policymakers would have been forced to reduce charter school autonomy, which would have resulted in a weaker law and, hence, potentially less charter school activity. This study gathered data to explore whether or not policymakers chose to neglect special education issues in order to craft a stronger law and therefore increase the likelihood of charter school activity.

Proposition 4) Special education advocates in Pennsylvania chose to support or to live with what they considered to be a weak bill rather than to fight the bill.

Charter foes have changed tactics from fighting charter bills to shaping the bills (Buechler, 1996, p. 15; Nathan, 1996, p. 174) and to supporting weak ones (Lindsay, 1995, p. 9). There is less charter school activity in states with weak charter school laws (Bierlein, 1995; Buechler, 1996). This study gathered data to explore whether or not special education advocates viewed Pennsylvania's charter school bill as a weak bill which would not generate enough charter school activity to make it worthwhile to fight the special education provisions in the bill.

Proposition 5) Special education advocates avoided trying to influence the charter school law because they thought the risks outweighed the benefits, and believed they could rely on their traditional tactics: due process and the courts after-the-fact.

Orland and Tan (1995) point out that recent education reforms such as charter schools – reforms which are tied more directly to performance outcomes, systemwide reform, and broader, more decentralized, and flexible service delivery arrangements – may hold more promise for advocates of equity than traditional approaches, because they hold the promise of enhancing educational outcomes for disadvantaged students. However, they also entail more risk, because

> less explicit service input mandates make it easier for administrators and educators to ignore the needs of disadvantaged groups. Devolved decision-making authority and enhanced program flexibility bring with them the prospect of reduced funding to special needs populations, especially when local budgets are under stress (p. 13).

Consequently,

> child advocates can be expected to adopt a 'back to basics' approach to securing equal educational opportunities: protecting traditional categorical program structures, minimizing the impacts of budget cuts, and relying heavily on the courts to maintain or enhance access and financial input guarantees (p. 13).

Special education advocates may have felt that advocating for special education provisions within Act 22 of 1997 was tantamount to supporting the charter school concept, a reform which they were not convinced would benefit children with disabilities. This study gathered data to explore whether or not special education advocates chose to rely on traditional means of advocacy – due process and the courts – rather than to influence the special education provisions within a reform bill with little overall promise for their constituency group.

Proposition 6) Policymakers feared that the charter school bill might be derailed if much time or exposure were given, in the debate, to the controversial matter of special education.

The rising cost of special education, the regulatory burden imposed by federal and state special education requirements, and the sheer emotional nature of the topic – after all, special education represents how society deals with one of its most vulnerable populations, children with disabilities – have made special education a highly controversial subject. Pennsylvania, in particular, has been a hotbed of activity for special education advocates since the PARC decision in 1971.[2] Prior to data collection, a high-ranking PDE official had already told the author that some policymakers felt that the special education provisions in Act 22 of 1997 were inadequate, but had decided to live with those provisions when passage of the bill was in sight, fearing that opening up the debate over special education issues might result in the defeat of the bill entirely. This study gathered data to explore whether or not policymakers placed a greater value on getting an overall bill enacted than on attending adequately to special education issues within the bill.

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[2] Pennsylvania Association for Retarded Children (PARC) v. Commonwealth of Pennsylvania, 334 F. Supp. 1257 (E.D. Pa. 1971).

Proposition 7) The shift in competing values away from equity to a focus on liberty (choice) and efficiency contributed to the neglect of special education issues in Act 22 of 1997.

The charter school movement may provide a concrete illustration of the competition between equity and the other values which Boyd (1996) has identified, as well as the shift away from an emphasis on equity since the 1960s and 1970s (Boyd, 1992). Since these competing values cannot all be maximized at the same time, policy choices must be made which tip the balance toward some values while neglecting or minimizing attention to others. This study gathered data to explore whether or not the special education provisions in Act 22 of 1997 can be attributed to Pennsylvania's policymakers valuing liberty and efficiency over equity.

Proposition 8) Special education issues were neglected because of the realities of bargaining and compromise in the politics of the legislative process.

Wohlstetter, Wenning, and Briggs (1995) did a content analysis of charter school legislation from 11 states to identify the set of legislative conditions that promotes charter school autonomy. Their data focused on three dimensions of autonomy: 1) autonomy of the charter school from the district and the state; 2) autonomy inside the school; and, 3) autonomy of parents and students. The authors found that no state scored the highest on all three of these dimensions, an outcome which they say is partly related to the "politics of the legislative process – bargaining and compromise" (p. 352). The political give-and-take behind the scenes which led to the special education provisions in Act 22 of 1997 is not apparent in the Act itself. This study gathered data to explore whether or not, and to what extent, if any, the special education provisions in Act 22 of 1997 were a result of the natural bargaining and compromise which occurs as part of the legislative process.

Unit of Analysis

The unit of analysis in this study was a piece of legislation: Pennsylvania's charter school law. In particular, the provisions in the law regarding special education were the unit of analysis around which the study was focused.

Logic Linking the Data to the Propositions

The general analytic strategy used in this study was its reliance on theoretical propositions. The propositions described above helped to organize the entire case study and to focus attention on certain data. Data collected from the interviews, documentation and archival records, and participant observation were analyzed using content analysis to look for pattern-matching (Gall, Borg, & Gall, 1996; Yin, 1994). "The causal inference is strengthened if ... the patterns discovered in the case study data correspond to predictions drawn from the theoretical propositions" (Gall, Borg, & Gall, 1996, p. 577). The case study database also assisted in linking the data to the propositions.

Criteria for Interpreting the Findings

As Yin (1994) admits, there is no precise way of setting criteria for interpreting case study findings. He asks the critical question: "How close does a match have to be so as to be considered a match" (p. 26)? Using pattern-matching and triangulation of data from multiple sources, the researcher made judgements about the sufficiency of contrast or convergence revealed by data analysis. Finally, as discussed subsequently under Data Analysis, the researcher followed Yin's (1994) four principles which underlie all good social science and lead to a high-quality analysis.

Method

This section describes the rationale for selecting a case study method, followed by the reasons for selecting the particular case at hand. Lastly, methods used for data collection and data analysis are described.

A case study method was chosen for a number of reasons. According to Yin (1994), a "case study is preferred in examining contemporary events, but when the relevant behaviors cannot be manipulated" (p. 8). Also, Yin (1994) identifies when a case study has a distinct advantage: "a 'how' or 'why' question is being asked about a contemporary set of events over which the investigator has little or no control" (p. 9). The relevant behaviors in this case could not be manipulated, and the investigator had no control over them, because the behaviors already occurred, resulting in Pennsylvania's charter school law and its particular provisions regarding special education. The central questions in this study were phrased with both a "how" and a "why" dimension.

This particular case was selected because of its political importance. As Borg, Gall, and Borg (1996) put it:

> Cases in qualitative research are selected by a purposeful sampling process. The particular case to be studied might be selected for various purposes, such as the following: the case is typical; it reflects the phenomenon of interest to an extreme extent; it is a deviant case of special interest; it is politically important (pp. 553-554).

A number of other states are expected to enact charter school legislation, so lessons learned from Pennsylvania's experience may be valuable to other state policymakers. Additionally, Pennsylvania is known for its turbulent education politics regarding reform efforts in general, as well its history of advocacy and litigation regarding special education, making it a politically significant state for study.

Data Collection

Data collection followed Yin's (1994) three principles:

1) Use multiple sources of evidence. To achieve data triangulation and increase construct validity, the following sources of evidence were used: interview data from a number of core participants in the policymaking process (key informants); documentation (e.g., Pennsylvania Department of Education (PDE) policy statements, external and internal PDE memos and letters, newspaper clippings, 86 different versions

of charter school bills introduced in the General Assembly; House and Senate floor histories); archival records (e.g., the researcher's notes; 49 sets of testimony before the Senate Education Committee); and, participant observation.

2) Create a case study database. To improve possible replication efforts, all researcher notes, case study documents, and interview transcripts were maintained in an organized fashion for future retrieval by any researcher who wants to conduct a separate, secondary analysis.

3) Maintain a chain of evidence. To increase reliability, the following steps were taken so that an external observer could trace the steps from conclusions to initial research questions or vice versa: 1) the dissertation itself cites specific documentation, interviews, or participant observations from the case study database; 2) the database itself reveals the actual evidence and indicates the circumstances under which the evidence was collected; 3) these circumstances are consistent with the procedures stipulated in the case study protocol; and 4) a reading of the protocol indicates the link between the content of the protocol and the initial study question.

Case study protocol.

The case study protocol consists of the instruments for collecting data as well as general procedures and rules to be followed in using the instruments. Using a protocol helped increase the reliability of the study.

Interviews constituted a majority of the data collected. The researcher gained access to each interviewee following established procedures for human research. All interviews took place between August 13, 1998, and February 23, 1999. This interview period was longer than originally intended because certain key interviewees were difficult to arrange interviews with or canceled scheduled interviews, causing unexpected delays. The researcher overlooked the fact that September and October are busy times for the Pennsylvania General Assembly (Pennsylvania's bicameral legislative branch), as it was finishing up a legislative session. This made it particularly difficult to make contacts and schedule interviews.

Each interview lasted approximately 45 minutes. With the interviewee's permission, the researcher tape recorded each interview. The tape recordings were transcribed verbatim and added to the case study database. Each interviewee was offered anonymity for answers.

The researcher piloted the interview with a colleague at the PDE, using the Interview Protocol. The interview went smoothly and generated what the researcher considered to be valid and important data, so the pilot interview data was considered as part of the interview data used for analysis. Based on the pilot interview, the researcher did not feel a need to modify the questions or the interview protocol.

Interviews were standardized but open-ended in order to minimize the possibility of bias, while at the same time allowing the researcher to probe more deeply to obtain additional information as necessary and appropriate. Following are the interview questions. These questions were also kept in mind when reviewing documents/archival records and during participant observation. The parenthetical numbers following each

question identify the proposition for which the question was predicted to generate relevant data.

Interview Questions.

Regarding the legislative debate over Act 22 of 1997:

1. What were the key issues in the overall debate? (7)
2. When the debate focused around special education, what were the key issues? (6)
3. Were special education issues treated differently from other issues? (7)
   a. If so, why do you think that occurred? (6, 7)
   b. If other political considerations outweighed special education considerations, what were they? (3, 7)
4. Who were the key proponents of the special education provisions which appear in the law? (6, 8)
   a. What tactics did those proponents use to achieve those provisions? (4)
   b. Why did those proponents advocate for those provisions? (4)
   c. Were any constituency groups conspicuously absent from the debate over special education? (5, 8)
      i. If so, why? (5, 8)
5. Who were the key opponents of the special education provisions which appear in the law? (6, 8)
   a. What tactics did those opponents use to defeat those provisions? (4)
   b. What alternative provisions, if any, did special education advocates or those opponents support ? (4)
6. Were some special education provisions considered but not included in the law? (8)
   a. If so, what were they? (8)
   b. Why weren't they included in the law? (8)
7. Why weren't special education issues addressed in more detail in the law? (6)
8. What resources (research, experience of other states) were used in designing the special education provisions in the law? (2, 8)
9. What, if any, special education experts were used in designing the special education provisions in the law? (2, 8)
10. Why were charter schools given a blanket waiver versus a case-by-case waiver of regulations in general? (3)
11. Why were charter schools given the degree of autonomy provided in Act 22 of 1997? (1, 3)
12. What were the pros and cons in the debate over making charter schools legally independent? (1)
13. Why didn't Act 22 of 1997 include provisions promoting participation of children with disabilities at charter schools? (5, 6)
14. Why didn't Act 22 of 1997 require that a certain number of charter schools must be designed for students identified as at-risk or low-achieving? (5, 6)
15. Why didn't Act 22 of 1997 specifically address transportation issues for children with disabilities? (5, 6)
16. Why didn't Act 22 of 1997 specifically address teacher certification issues relating to special education? (5, 6)
17. Why didn't Act 22 of 1997 specifically clarify that charter schools are local educational agencies for purposes of the Individuals with Disabilities Education Act? (5, 6)

18. What have been the consequences – both anticipated and unanticipated – of the way special education was treated in the legislation?
19. Given your experience, what advice do you have for other states regarding special education provisions in their charter school laws?
20. Should Act 22 of 1997 be revised in regard to special education?
    a. If so, how?

Interviewees.

Tables 1, 2, and 3 provide a list of persons interviewed for this study. Titles of interviewees when interviewed were the same as during the legislative debate over Act 22 of 1997, with the exception of Timothy H. Daniels. His title changed, but not his function as the PDE person in charge of the charter school initiative. Interviewees were selected because of their role representing the General Assembly, the administration (either the Governor's office or the PDE), or a special interest group, as well as their role in the crafting of Act 22 of 1997. The latter was determined by the researcher via participant observation, or because names were mentioned by other interviewees or in documents and/or archival records.

The researcher made multiple, but unsuccessful attempts to arrange interviews with Representatives Jess Stairs and Ron Cowell, as well as with Kathy Eakin from the Governor's Office of General Counsel. Charles Zogby, Director of the Governor's Policy Office, canceled a scheduled interview and declined to reschedule, explaining that talking to Greg White at the PDE should be sufficient. The researcher explained the need for data triangulation to no avail.

Eighteen formal interviews were conducted, as well as three limited interviews. Limited interviews were conducted when a prospective interviewee, after the researcher described the study, claimed that his or her level of involvement with or awareness of the legislative debate over Act 22 of 1997 was such that no useful information would be gained by formal interview. A written protocol was developed and used to conduct limited interviews.

Interview data collection was ended when saturation of categories and emergence of regularities occurred. A significant decrease in the amount of new data being produced was noticed after approximately twelve interviews. Ending data collection was a judgement made by the researcher and checked by an experienced researcher.

TABLE 1

Interviewees from the General Assembly

Name	Title When Interviewed
1. Mary Young	Majority Executive Director, Senate Education Committee (R)
2. The Honorable James J. Rhoades	Senator, Majority Chair of Senate Education Committee (R)

TABLE 1 (Continued)

Name	Title When Interviewed
3. Michele M. Hansarick	Senior Policy and Research Specialist, Majority Leader's Office (R)
4. Richard Boyajian	Education Analyst, Senate Appropriations Committee (R)
5. Paula Hess	Majority Executive Director, House Education Committee/Special Research Director to the Majority Leader (R)
6. Thomas E. Gluck	Minority Executive Director, Senate Democratic Education Committee

TABLE 2

Interviewees from the Administration

Name	Title When Interviewed
7. Chris Bravacos	Deputy Legislative Secretary, Governor's Office
8. John J. Tommasini	Chief, Division of Program Administration, Bureau of Special Education, PDE
9. William W. Penn	Director, Bureau of Special Education, PDE
10. James M. Sheehan, Esq.	Chief Counsel, PDE
11. Timothy H. Daniels	Director, Office of Educational Initiatives, PDE
12. Gregory White	Director, Policy Office, PDE
13. Billie Kaye Kraus	Director, Government Relations, PDE
14. Eugene W. Hickok	Secretary of Education
15. Peter H. Garland (limited interview)	Executive Director, State Board of Education

TABLE 3

Interviewees from Special Interest Groups

Name	Title When Interviewed
16. Thomas J. Gentzel	Assistant Executive Director for Governmental and Member Relations, Pennsylvania School Boards Association
17. Stinson Stroup	Executive Director, Pennsylvania Association of School Administrators
18. Elizabeth Stanley-Swope	Director of Exceptional Programs, Pennsylvania State Education Association

TABLE 3 (Continued)

Name	Title When Interviewed
19. Kim Bright (limited interview)	Past President, Pennsylvania Federation of the Council for Exceptional Children
20. Janet Albert-Herman (limited interview)	Chair of Education Committee, First Vice President, ARC-PA
21. Nancy A. Hubley, Esq.	Managing Attorney, Pittsburgh Office of the Education Law Center-PA

Data Analysis

"Data collection is emergent in case study research" (Gall, Borg, & Gall, 1996, p. 559). That is, something the researcher learns from data collected at one point may be used to determine subsequent data collection activities. To facilitate this, the researcher took notes during each interview, even though it was being taped, in order to begin the process of identifying preliminary themes and patterns as well as to inform future interviews.

Interpretational analysis was the primary method of analyzing case study data (from interviews, documentation, and participant observation), using content analysis to look for pattern-matching between case study data and the study's propositions. The steps in this process include segmenting the database, developing categories, coding segments, grouping segments, and drawing conclusions. Data analysis was organized by Interview Question. The process of coding segments and developing categories was done manually.

For example, the researcher read the transcript answers to Interview Question 1 for all eighteen interviews, coding segments, developing categories of response, labeling segments, and keeping tallies in draft tables. Space limitations prevent the presentation of all data tables in this paper, but Table 4 provides an example:

TABLE 4

Responses to Interview Question 9: What, if any, special education experts were used in designing the special education provisions in the law?

Category of Response	Interview Source	# of Responses from General Assembly	# of Responses from Administration	# of Responses from SIGs	Total # of Responses
Don't know of any	001,002, 003,004, 006,008, 009,012, 013	4	3	2	9

TABLE 4 (Continued)

Category of Response	Interview Source	# of Responses from General Assembly	# of Responses from Administration	# of Responses from SIGs	Total # of Responses
Education Law Center-PA and others who testified	005,016, 018	1	1	1	3
PDE Bureau of Special Education	007,010, 011	1	2	0	3
General PDE staff	017,018	0	1	1	2
Legislative staff	015	0	1	0	1
No outside consultants were used who had focused on sp. ed. policy and CS	018	0	0	1	1
Other states	017	0	1	0	1
PASA	016	1	0	0	1
PDE legal staff	005	0	1	0	1
PSBA	016	1	0	0	1
PSEA attorney	014	0	0	1	1
School District of Philadelphia	016	1	0	0	1
TOTAL		9	10	6	25

Note. CS = charter school(s); PASA = Pennsylvania Association of School Administrators; PDE = Pennsylvania Department of Education; PSBA = Pennsylvania School Boards Association; PSEA = Pennsylvania State Education Association; SIGs = special interest groups; sp. ed. = special education.

The process of interpretational analysis was iterative, as each subsequent interviewee's responses were either grouped with previously developed categories, or caused previous categories to be modified, collapsed, or deleted. The total amount of interview data was 152 single-spaced pages, or 68,342 words (including the researcher's questions). Coding and content analysis continued until the researcher had accounted for all responses. The researcher used a grounded theory approach to develop the categories, since none existed in the literature, and checked them with an experienced researcher for reliability.

To analyze the 49 sets of written testimony given before the Senate Education Committee, the researcher read each testimony and collapsed the findings into tables showing the name and organization of the testifier with all comments regarding special education or children with disabilities. To analyze different versions of charter school

legislation introduced in the General Assembly, the researcher first determined which bills were significant, based on if they were mentioned by interviewees, tracked by the news media, or appeared in the Pennsylvania School Boards Association's legislative publication. Four bills, introduced as fifteen different Printer's Numbers, were consequently deemed significant and were analyzed by comparing their features with all of the special education provisions in Act 22 of 1997. The researcher read a total of 86 different bills to see if any of them differed substantively from the fifteen selected for analysis. Information from this analysis was collapsed into charts showing the features of Act 22 of 1997 alongside the features of the fifteen different bills, with a judgement about whether or not the features were the same or different. An example of such a table is shown as Table 5.

TABLE 5

Language in Act 22 of 1997 Regarding Causes for Nonrenewal or Termination Compared to Other Significant Bills

Act 22 of 1997 (SB 123, PN 1174, Introduced January 21, 1997, Enacted June 12, 1997)	House Bills	Senate Bills
Charter may be revoked for violation of any law from which the CS has not been exempted, including Federal laws and regulations governing children with disabilities.	HB 1834 – June 21, 1995 PN 2246 – D (no mention of revocation for violation of any laws) PN 3049 – D (revocation for law violation but no specific mention of sp. ed.) PN 3137 – D (same as PN 3049) PN 3181 – D (same as PN 3137) PN 3226 – D (same as PN 3181) PN 4239 – D (same as PN 3226) HB 36 – Jan. 27, 1997 PN 40 – D (same as HB 1834 PN 3049) PN 1588 – D (same as PN 40)	SB 123 – Jan. 21, 1997 PN 120 – N PN 1125 – N PN 1131 – N PN 1169 – N SB 999 – May 7, 1997 PN 1082 – D (same as HB 1834 PN 3049) PN 1126 – S PN 1141 – S

Note. Dates indicate when bills were introduced unless otherwise indicated. Senate Bill 123, Printer's Numbers 120, 1125, 1131, and 1169 did not contain any charter school provisions; they concerned establishing a Pennsylvania Science Partnership Program and establishing residential education programs for at-risk secondary students. CS = charter schools; D = substantively different provision from Act 22 of 1997 as described in parentheses; HB = House Bill; N = no parallel language; PN = Printer's Number; S = substantively the same provision as Act 22 of 1997; SB = Senate Bill; Sp. ed. = special education.

The researcher reviewed all entries in the in the Commonwealth of Pennsylvania's Legislative Journal (the official publication of General Assembly floor proceedings) to identify what legislators said about special education, if anything, in their remarks on the House of Senate floor regarding charter school legislation. Additionally, the researcher reviewed newspaper articles from the Harrisburg Patriot-News which were published contemporaneously with the charter school debate in Pennsylvania. The researcher also reviewed archival records of the Majority Executive Director of the Senate Education Committee to identify all references to special education within the charter school debate in Pennsylvania. Data from the latter three sources were reported anecdotally because the amount of data was minimal and did not lend itself to representation in a tabular format.

As Yin (1994) points out, one of the most desirable strategies for case study analysis is to use a pattern-matching logic, in which an empirically-based pattern is compared with a predicted one (p. 106). In this study, categories which emerged from the data (the empirically-based pattern) were compared to the study's propositions (the predicted pattern). When a proposition matched a category or categories, that proposition was considered to have been supported by the data. When a proposition did not match a category or categories, that proposition was considered as unsupported by the data. An experienced researcher was asked to review judgements about the match between the propositions and the categories which emerged from the data. To support the general analytic strategy of pattern-matching, the data was organized and presented using an appropriate analytic technique in the form of tables showing categories, sources of data, and tallies.

> Unfortunately, at this point in the state of the art, the actual pattern-matching procedure involves no precise comparisons.... The fundamental comparison between the predicted and the actual pattern may involve no quantitative or statistical criteria (Yin, 1994, p. 110).

To address this limitation, the researcher followed Yin's (1994, pp. 123-124) four principles for assuring a high quality analysis. First, the analysis was based on all the relevant evidence. Data was analyzed exhaustively and no loose ends remained. Second, the analysis included all major rival interpretations. An experienced researcher was asked to offer alternative explanations for findings, and those alternatives were either addressed or identified as "loose ends" for future research. Third, the analysis stayed focused and addressed the most significant aspect of the case. Fourth, the researcher brought his own prior, expert knowledge to the case study.

How the Limitations of the Study Were Addressed

This study was limited by a number of factors typical of qualitative designs. While none of these limitations were eliminated, they were ameliorated by a number of techniques described in this section. In particular, this study had limitations in the areas of design, method, and sample.

Limitations from the Study's Design

Probably the biggest weakness of qualitative research, and a case study design in particular, is the difficulty in establishing validity and reliability. For example, this study could be criticized for lacking construct validity, because it did not have a set of operational measures and used subjective judgements when collecting data. These weaknesses were addressed by using multiple sources of evidence, establishing a chain of evidence, and having key informants review a draft analysis of the data (Yin, 1994). Second, this study could be criticized for having difficulty establishing internal validity so that inferences can be made. Per Yin's (1994) suggestion, this limitation was addressed by developing propositions to shape the data collection plan and guide the case study analysis (p. 104). Such "theoretical propositions about causal relationships – answers to "how' and "why" questions – can be very useful in guiding case study analysis" (Yin, 1994, p. 104). Further, comparing the empirically-based patterns (study findings) with the predicted ones (propositions) strengthens internal validity if the patterns coincide. Yin (1994) calls this "pattern matching."

It would be difficult to generalize the findings of this study to other cases. For example, to apply the findings from this study to other states presumes that the politics of the other state are similar. Yet politics vary across boundaries and time. However, attempts were made to rely on what Yin (1994) calls analytical generalization; that is, findings were generalized to theory or previous findings, rather than to other similar situations. Finally, this study would be difficult to replicate, or establish reliability by minimizing errors and bias. To address this limitation, this study relied on Yin's (1994) recommendation to use a case study protocol and to maintain a case study database. The researcher collected and analyzed data "as if someone were always looking over ... [his] shoulder" (p. 37).

Case studies are sometimes accused of taking too long and generating massive, unreadable documents (Yin, 1994, p. 10). However, this confuses the case study with ethnography or participant observation, and neither of these limitations were unchecked. Data collection took place over a limited period of time, confined mainly to interviews, but supplemented by documentation and archival records. The participant observation aspect of this study was a consequence of the researcher's position at the PDE, and required no additional time. The results of the study itself were written in an organized, readable fashion, so that its length would not hinder communication.

Limitations from the Study's Method

This study's method had limitations in the areas of interviewing and observer effects. Each of those areas is discussed in this section.

Limitations of interviewing.

The main method of data collection in this study was interviewing. One obvious limitation may have been the researcher's interview skills. However, this was addressed by piloting the interview and using a written interview protocol. Another limitation was the large amount of data collected. To ameliorate this, the researcher used a systematic process of data collection and analysis, making sure to end data collection according to the criteria in Gall, Borg, and Gall (1996): exhaustion of resources, saturation of categories, emergence of regularities, and overextension (pp. 561-562). At the same time, the researcher took care not to end data collection prematurely, another possible limitation of case study research.

Observer effects.

Another design limitation inherent in this study was observer effects. The effect of the observer on the observed was minimized by the researcher having been a routine presence among most of the state's key policymakers who were interviewed. None of the data collected as a participant observer was from formal observations, but emerged from participating in naturally occurring job situations. Bias of the observer was an additional limitation of this study, and was addressed by the researcher distinguishing between the emic and etic perspectives when collecting, analyzing, and reporting data. To minimize bias in collecting interview data, interviews were tape recorded; this also helped reduce observer contamination of data, as well as observer omissions. To reduce bias in those being interviewed, the researcher offered anonymity to each interviewee for some or all of his or her responses. To reduce the limitation of observer drift, the researcher was the only interviewer and only source of participant observation data. Finally, to address the problem of reliability decay, the researcher collected interview data in as short a period of time as possible (six months).

Limitations from the Study's Sample

Limitations of the sample in this study are related to purposeful versus random sampling. While the chosen case is politically important and should provide depth of research, it will be difficult to generalize the findings to other cases. However, it may be left to other researchers to aggregate and compare case studies dealing with similar phenomena, as suggested by Gall, Borg, and Gall (1996, p. 553). Findings were generalized to theory or previous findings, and careful generalizations may be made to other cases if enough of the independent variables are similar.

Additional limitations arose from the limited number of interviews conducted. Nevertheless, the interviewees were chosen carefully as either key policymakers or representatives of influential constituency groups on policymaking in Pennsylvania (see Karper & Boyd, 1988). The limited number of people involved in crafting Act 22 of 1997 also accounted for the small number of interviewees. Interviewees were being asked questions about a process over a year old, so memory decay was also a limitation. To address this, the Interview Protocol required the researcher to differentiate clearly the need to base responses on the legislative process prior to Act 22 of 1997's enactment, not after, and excerpts from the law relevant to children with disabilities were provided to each interviewee prior to the interview. The researcher also carried a complete copy of Act 22 of 1997 with him during every interview in case an interviewee needed to reference a section which was not represented in the excerpts provided.

While this study could not establish a causal relationship between certain variables and the treatment of special education policy in charter school legislation, it could report what seemed to be reasonable explanations based on the data collected. It is for the reader to evaluate whether or not the explanations makes sense, and for future researchers to gather supporting evidence for any findings claimed by this study.

Significance of the Study

Charter schools are one of the hottest educational reform topics in America today, and President Bill Clinton is pushing to double federal funding for charter schools. He has stated that he wants 3,000 charter schools established by the year 2000 (Guthrie, 1997). As of February 2000, there were 37 charter school laws in the United States, and nearly 1,700 charter schools in operation (Center for Education Reform, 2000).

Pennsylvania was the 27th state to enact charter school legislation since Minnesota opened the first charter school in the nation in 1991 ("Charter fans cheer," 1997, p. 2). National developments to date make it clear that additional states will attempt to enact charter school legislation. As Nathan (1996) puts it, "The debate in many states is no longer about whether there will be charter legislation. The conflict is over the form of that legislation" (p. 174). Orland and Tan (1995) predict that charter schools are more likely to survive than other components of the new education reform agenda, because they are examples of debureaucratization of government services, which is "congruent with new voter attitudes" (p. 11). Also, charter schools enjoy broad support among political leaders and do not necessarily require additional funding. However, the literature and recent events point out a potential "chink in the armor" of the charter school movement: special education.

The results of this study of Pennsylvania's experience may be useful to policymakers in other states by shedding some light on the politics and practical issues of designing and enacting charter school legislation which deals effectively with special education. The author's position as the Special Education Adviser for Policy at the Pennsylvania Department of Education during the legislative debate and initial implementation of Pennsylvania's charter school law provided a unique opportunity to study the design and enactment of special education policy in charter school legislation in a state with a turbulent history of education politics. Of further significance, the relationship between charter schools and special education has been largely ignored in the literature until quite recently (Heubert, 1997, p. 308, Footnote 32; Hubley, 1999).

Findings

In this section, findings related to the study's propositions are presented first, along with a discussion of each finding's importance, its consistency with theory or previous findings, and alternative explanations. Next, propositions of the study which were not supported by the data are reviewed. Finally, other findings of possible significance – that is, findings which were not predicted by the study's propositions – are listed and discussed.

All of the findings of this study are listed in numerical order in this section. As a convenience to the reader, each predicted finding is cross-referenced to its relevant proposition.

Findings Related to the Study's Propositions

The following findings were generated where patterns which emerged from the data collection coincided with predictions contained in the study's propositions. The proposition to which each finding is related is provided in parentheses after each finding number.

Finding One (Proposition One). Policymakers failed to anticipate the paradoxical outcome of making charter schools autonomous.

Data from interviews, documents, archival records, and participant observation supported Proposition One, that policymakers failed to anticipate the paradoxical outcome of making charter schools autonomous. With the exception of the researcher's having attempted to alert other PDE officials to this matter of concern, none of the data indicated that policymakers were aware of – or gave credence to if they were aware – the implications under federal law of making charter schools highly autonomous as described by Heubert (1997). The specific matter was not the subject of legislative debate, nor was special education in general. Rather, special education provisions were modeled after provisions in other states' laws, inserted into early bills, and basically stayed the same with little modification over time. Policymakers did not seek out resources or experts regarding special education and charter schools, including resources within the PDE itself.

This finding's importance is that it identifies an area that is likely to be neglected by state policymakers regarding charter school legislation, and therefore it may serve as an impetus for future state policymakers crafting charter school laws to address this problem proactively. This finding is consistent with previous findings because it was established by empirical data supporting the prediction in Proposition One. An alternative explanation for this finding might be that policymakers were aware of the paradox at play regarding charter school autonomy and special education, but chose to ignore it. However, little or no data were found which support this alternative explanation. Furthermore, the validity of this finding is strengthened by its coincidence with a proposition, and because it was based on multiple sources of evidence from interviews, documents and archival records, and participant observation.

Finding Two (Proposition Two). Special education issues were neglected because special education experts were not called upon to contribute to the design of Act 22 of 1997.

Data from interviews, documents, archival records, and participant observation supported Proposition Two, that special education issues were neglected because special education experts were not called on to contribute to the design of Act 22 of 1997. Interviewees could not confirm the involvement of the PDE's own Bureau of Special Education or of outside experts. To the contrary, staff from the Bureau of Special Education, including the researcher as a former staff member, disavowed the involvement of the Bureau in the design of Act 22 of 1997. Interviewees, documents, and archival records revealed no special education experts involved in designing Act 22

of 1997. While some interviewees listed names, offices, and other sources in response to the question about the involvement of special education experts, the researcher – as a special education administrator with 20 years of experience at local and state levels of governance – did not recognize any of the parties mentioned as special education experts with the exception of the Education Law Center – PA. However, their involvement, as admitted by their own attorney, was limited to commenting during formal testimony, rather than being consulted in designing the special education provisions in the law.

The words of the PDE's Director of Special Education, William W. Penn, provide a concise summary:

> As I recall, the charter school legislation was basically one that was written by a small group of people and introduced without the preliminary discussions concerning the implications for kids with disabilities.

In short, Proposition Two was supported by the data: the special education provisions in Pennsylvania's charter school law were designed without the involvement of special education experts.

This finding's importance is that it not only identifies a potential blind spot on the part of charter school policymakers, but also highlights the inherent conflict between the deregulated nature of charter schools and the over-regulated nature of special education. This finding is consistent with previous findings because it was established by empirical data supporting Proposition Two. An alternative explanation for this finding might be that special education experts were indeed involved in the formulation of the special education provisions in Act 22 of 1997, but that the lag between enactment of the law and collecting interview data caused memory decay on the part of interviewees. However, no data were found which support this alternative explanation. Another alternative explanation may be that special education issues were not neglected <u>because</u> special education experts were avoided, but that special education issues would have been neglected <u>even</u> with the involvement of special education experts, because policymakers consciously chose to neglect special education issues. The latter explanation is not mutually exclusive of this finding. Another alternative explanation may be that special education issues were ignored because Act 22 of 1997 was basically crafted by a small circle of policymakers. While the validity of this finding is supported by the fact that it was predicted by one of the study's propositions and that it was based on multiple sources of evidence, the alternative explanations discussed above may diminish any ability to establish a causal relationship between neglect of special education issues and lack of involvement of special education experts.

<u>Finding Three (Proposition Six).</u> Policymakers feared that the charter school bill might be derailed if much time or exposure were given, in the debate, to the controversial matter of special education.

Proposition Six was supported by data collected in this study. Several interviewees acknowledged that there was fear among policymakers that special education issues could derail the legislation, and that the resulting lack of attention to special education issues was a result of that fear. Policymakers engaged in what could be termed "strategic avoidance" of special education. They crafted generic statements – based on other states' charter school laws – addressing special education early on and

kept those provisions in subsequent versions of charter school legislation. Special education experts and advocates were not sought out to participate in the debate. While employed at the PDE as the Special Education Adviser for Policy, the researcher was told by a very high ranking PDE official that policymakers knew that Act 22 of 1997 was probably deficient regarding special education, but that they had consciously decided to live with such deficiencies rather than try to address them and risk a contentious special education debate which might jeopardize passage of charter school legislation.

It is important to point out that there is no reason to believe that such calculated avoidance of special education was driven by callous motives or disregard for the rights of children with disabilities. Rather, it was probably a response to the conflict between the competing values of liberty and efficiency inherent in the charter school movement versus the equity focus of special education.

This finding is important for explaining one of the reasons special education was not the subject of much discussion or debate regarding charter school legislation in Pennsylvania. Policymakers practiced an almost "strategic avoidance" of special education issues. This finding also spotlights the tension between the charter school movement and special education. It is consistent with previous findings because it was established by empirical data supporting Proposition Six. An alternative explanation for this finding might be that special education was ignored for other reasons, including the reason discussed below in Finding Four. The validity of this finding is strengthened by its coincidence with a proposition, although it was mainly supported by interview data and limited data from participant observation.

Finding Four (Proposition Seven). The shift in competing values away from an emphasis on equity to a focus on liberty (choice) and efficiency contributed to the neglect of special education issues in Act 22 of 1997.

Proposition Seven was supported by the data collected in this study. The focus of the charter school debate was on issues revolving around liberty and efficiency. Most of the legislative arguments dealt with how much freedom charter schools would have, how they would be held accountable, funding, teacher certification, and the appeals process. The debate occasionally touched on discrimination in admissions – an equity issue – but almost never focused on special education per se. Interestingly, parental choice – in itself a form of liberty – was seen by a number of policymakers as a protection which made equity considerations unnecessary.

This finding is important for its consistency with broader political theory as well as for explaining one reason state policymakers avoided special education issues in crafting charter school legislation. As policymakers attempted to maximize the essential features of charter schools – liberty and efficiency – they were inclined to minimize their attention to special education, which is representative of equity values. Several policymakers who were interviewed bluntly pointed out that charter school legislation is not the forum for addressing special education issues. This finding is consistent with existing theory because it was established by empirical data supporting Proposition Seven (see Boyd (1992) and Boyd (1996) for a discussion of competing political values and the shift away from a focus on equity). An alternative explanation might be that policymakers simply neglected special education for any number of other reasons, not the least of which may be weariness or disdain for the subject of special education in a state where it is a highly controversial topic. However, the validity of this finding is

strengthened by its coincidence with a proposition, although it was mainly supported by interview data and limited data from participant observation.

Propositions Not Supported by the Data

This section addresses four propositions of the study which were not supported by the data. Each proposition is presented, followed by a brief discussion.

Proposition Three. Special education issues were neglected because policymakers who favored charter schools believed a "stronger" law – one that made charter schools more autonomous – would promote the creation of more charter schools.

To overcome the paradox of autonomy identified by Heubert (1997), policymakers probably would have been forced to reduce charter school autonomy in order to address special education effectively. Reducing autonomy would have resulted in a weak law, and therefore less charter school activity. Consequently, this proposition explored whether or not policymakers neglected special education issues in favor of a strong law.

Proposition Three was not well supported by data collected in this study. Data suggested that policymakers were aware that a stronger law would promote the creation of charter schools and that they therefore advocated for a strong law. However, only three interviewees drew a connection between the desire for autonomy and the resulting neglect or treatment of special education issues. Combined with lack of support from documents, archival records, and participant observation, the limited number of interviewees who supported Proposition Three leads to the conclusion that, generally, while policymakers did advocate for a strong charter school law, they did not therefore consciously ignore special education issues.

Proposition Four. Special education advocates in Pennsylvania chose to support or to live with what they considered to be a weak bill rather than to fight the bill.

If special education advocates viewed Pennsylvania's charter school legislation as a weak law, they may have decided that fighting the legislation was not worth the trouble because a weak law would not generate much charter school activity. Proposition Four explored whether or not this was the case.

Proposition Four was not supported by data collected in this study. Data suggested that special education advocates – with the exception of the Education Law Center – PA – were generally disengaged from the debate over charter school legislation in Pennsylvania. The reasons for this disengagement vary, but there is no evidence to suggest that the reason for such disengagement – or for the limited actions special education advocates did take – was because of a conscious decision to support or live with what they considered to be a weak law (that is, one that would spawn little charter school activity and therefore be of little consequence) rather than to fight it.

Proposition Five. Special education advocates avoided trying to influence the charter school law because they thought the risks outweighed the benefits, and believed they could rely on their traditional tactics: due process and the courts after-the-fact.

For special education advocates in Pennsylvania to have attempted to influence the charter school law might have appeared tantamount to supporting the charter school concept, a reform which they may not have been convinced would benefit children with disabilities. This proposition explored whether advocates therefore chose to avoid influencing the law, knowing that they could always rely on traditional tactics.

As with Proposition Four, Proposition Five was not supported by data collected in this study. Data suggested that special education advocates – with the exception of the Education Law Center – PA – were generally disengaged from the debate over charter school legislation in Pennsylvania.

Proposition Eight. Special education issues were neglected because of the realities of bargaining and compromise in the politics of the legislative process.

This proposition explored whether the special education provisions in Act 22 of 1997 are the result of the typical political give-and-take behind the scenes of most legislation. Proposition Eight was generally not supported by data collected in this study, although there was considerable bargaining and compromise over non-special education issues such as teacher certification, mandate relief, and the appeals process. As discussed under Proposition Six, special education was not the subject of much, if any, debate. The exception to this pertains to the special education funding provisions, which is not surprising. Funding, as several interviewees pointed out, is always a political issue.

Other Findings

The following findings were generated from patterns or information which emerged from the data collection, but which were not predicted by the propositions of the study. As such, they represent theory grounded in the study's data and would be appropriate for further investigation. The importance of each finding is presented, followed by questions which may guide further research.

Finding Five. Although special education was not the subject of much, if any, debate, the key issues within the limited debate over special education were nondiscrimination issues and funding.

This finding is important because it points out two areas of debate related to special education which may have, in effect, overshadowed other important special education policy issues. Did policymakers think that if they ensured that charter schools were nondiscriminatory in admissions and received special education funding, specific special education matters would take care of themselves without additional, specific policy guidance in the regulations?

Finding Six. Legislators depended heavily on the provisions in other states' laws when crafting charter school legislation, and therefore may have inadvertently replicated faulty legislation.

This finding is important because it identifies what may be a weakness in how charter school legislation is crafted. Simply borrowing "boilerplate" language from other states' charter school laws does not guarantee successful legislation. A state from whose law language is borrowed may have statutes and regulations which are different

enough that such provisions are not sufficient in another state, or may actually cause legal, policy, and implementation problems. Do legislators typically model legislation after laws in other states, or just in regard to new areas of legislative activity, such as charter school laws?

Finding Seven. Some policymakers did not anticipate that many children with disabilities would attend charter schools, despite what the research says.

This finding is important because it identifies a belief system among some policymakers which cannot be supported by the research on the incidence of children with disabilities attending charter schools. Why did some policymakers anticipate that not many children with disabilities would attend charter schools? Did policymakers who held such a belief make policy decisions – consciously or unconsciously – which would result in a self-fulfilling prophecy? Did policymakers who held such a belief ignore the research, or simply not review it?

Finding Eight. The reason that special education advocates were not involved in the charter school debate in Pennsylvania was not because of strategy on their part, but appeared to be a reflection of their alienation and feelings of powerlessness during Governor Ridge's Administration.

This finding is important because it may identify a general strategy of disengaging from longstanding education policy stakeholders on the part of the Ridge Administration. If this was a calculated policy, did it achieve the Ridge Administration's intended outcomes? It would also be interesting to know at which level of the Ridge Administration such a policy was originally initiated. Was it the brainchild of the Secretary of Education, or did it emanate from the Governor's Office itself?

Finding Nine. Policymakers avoided debate over special education by getting early agreement on special education language and then leaving that language basically undisturbed throughout subsequent charter school bills.

This finding is important because it may identify a legislative strategy which is successful but flawed. That is, getting early agreement on language and leaving it undisturbed successfully avoids much debate or controversy over special education issues, but, at the same time, may result in overlooking important special education policy issues. Is such a strategy typical of other legislative efforts in Pennsylvania, or in other states, or was it unique to Act 22 of 1997?

Finding Ten. Policymakers avoided debate over special education by confining the crafting of Act 22 of 1997 to a small, core group of participants.

Like Finding Nine, this finding is important because it may identify another legislative strategy which is successful but flawed. That is, confining legislative development to a small, core group of participants successfully avoids much debate over special education issues, but may result in overlooking important special education policy issues, especially if participants with special education expertise are not part of the core group of policymakers. Is this strategy typical of other legislative efforts in Pennsylvania or in other states?

Finding Eleven. Lack of attention to certain special education issues in Act 22 of 1997 was a result of simple oversight on the part of policymakers.

This finding is important because it points out a policymaking error which could be avoided quite simply by involving special education experts in the legislative debate and, generally, by attending to special education issues in charter school legislation in a proactive, open manner. This finding also reinforces the need for policymakers to make sure that they take steps to identify the implications which charter school legislative provisions may have for special education policy, in order to avoid overlooking important policy issues like transportation, certification, and whether or not a charter school law creates charter schools which are local educational agencies. Taking such steps might help avoid enacting a charter school law which results in unintended interpretations of the law where children with disabilities are concerned. Have policymakers in states other than Pennsylvania overlooked special education issues during the legislative debate over charter schools?

Finding Twelve. Some policymakers accept the reality that statutes are always flawed and routinely depend on regulations to address significant statutory deficiencies.

This finding is important because it may provide insight into the legislative process in general. It also supports the theory of decision-making termed "satisficing" by Herbert Simon (Hoy & Tartar, 1995, p. 9). The ability to regulate after-the-fact gives public policymakers a built-in incentive to make satisficing decisions – that is, decisions which are good enough – during the legislative process. To what extent is this mindset common among policymakers? What is the impact of such a mindset on the development of statutes and the resulting need for regulatory activity?

Finding Thirteen. Some policymakers saw parental choice as a sufficient mechanism to protect the rights of children with disabilities attending charter schools, and therefore did not see a need to pay much attention to special education matters in charter school legislation.

This finding is important because it helps to illustrate one of the reasons policymakers may avoid taking a proactive approach to special education policy in charter school legislation. However, such a simplistic view ignores the intent behind federal laws and regulations regarding special education, which provide procedural protections beyond the protections available to children who are nondisabled in order to ensure equal protection of the law to children with disabilities. Parental choice is available to parents without regard to the disability status of their children, so parental choice is unlikely, in and of itself, to afford a child with a disability equal protection of the law. Even if parental choice did provide children with disabilities a sufficient mechanism to protect their rights, it could not waive such children's rights to protection under applicable disability laws. Does this particular posture of policymakers imply a disregard for the need to extend the protections of federal disability laws to children with disabilities, or just a misunderstanding? What are the views of policymakers in states other than Pennsylvania regarding the level or protection parental choice affords children with disabilities?

Finding Fourteen. The key issues in the debate over charter school legislation were funding, mandate relief, the appeal process, and teacher certification.

This finding is important because it identifies the key issues in the debate over charter school legislation in Pennsylvania. In concert with what the research literature says on this topic, this finding may help policymakers in other states who are contemplating charter school legislation to identify and to prepare for potential areas of conflict and debate. It would be valuable to explore how the main issues in Pennsylvania's debate compare to the issues in other states, looking for similarities which may be tied to other common variables. For example, is funding a main issue only in states with certain funding approaches to basic education? Is the level of debate over mandate relief related to the perceived or actual level of general education mandates in a state? Does debate over the appeal process vary depending on the political party controlling the administration or the legislature?

Finding Fifteen. An unintended consequence of neglecting special education issues in charter school legislation was the resulting need to interpret the law's provisions, after-the-fact, in ways which were not intended in order to deal with children with disabilities.

This finding points out an unintended consequence of neglecting special education issues in charter school legislation. Whether or not charter school legislation clarifies special education policy issues, such policy issues will need to be clarified. Unfortunately, when clarification takes place after a law is enacted, deciding what the law means for children with disabilities may result in interpretations which policymakers never intended or anticipated. An example of this in Pennsylvania was the ultimate interpretation that Act 22 of 1997 creates charter schools which are local educational agencies. Some Pennsylvania Department of Education officials argued strongly against this interpretation, because they knew that such an interpretation would mean that charter schools would be independently responsible for meeting all the complex requirements of federal disability laws. To what extent have other states interpreted charter school laws in unintended ways in order to deal with children with disabilities?

Recommendations for Policy and Practice

The most basic recommendation for policymaking – and the one with the most promise regarding charter schools and special education – is that state policymakers need to address special education proactively when designing charter school legislation. That is, they should become familiar with the existing literature on the subject as well as involve special education experts in legislative design. Doing so would minimize the chances of neglecting important special education policy issues. At the very least, state policymakers need to understand the paradoxical outcome of making charter schools autonomous. Where special education is concerned, the more independent in governance that charter schools are made by well-intentioned state policymakers, the more charter schools become independently subject to the complex requirements of federal laws and regulations governing children with disabilities.

The most concrete example of this paradox is represented by the matter of whether or not a charter school is a local educational agency (LEA) under the federal Individuals with Disabilities Education Act Amendments of 1997 (IDEA '97). Although some charter school laws do not, explicitly, make it clear whether or not a charter school

is an LEA, the LEA status of a charter school must be decided in order to determine who is responsible for special education duties under IDEA '97. The "stronger" a charter school law is – that is, the degree to which a charter school is granted independence and autonomy – the more likely it is that a charter school must function as an LEA. As pointed out in this study, policymakers did not debate or raise the LEA issue when crafting Pennsylvania's charter school law. Consequently, after enactment of Act 22 of 1997, the Pennsylvania Department of Education had to clarify via policy that, based on a comprehensive review of the entire charter school law, charter schools in Pennsylvania are LEAs. The significance of LEA status was addressed in detail in Chapter II of the published dissertation, but a review of the implications of being an LEA is useful in order to understand the importance of this policy matter.

When a charter school is an LEA, it bears the entire responsibility for special education duties under IDEA '97. These duties are extensive, detailed, and burdensome. As an LEA, a charter school is responsible for identifying and evaluating all children with disabilities enrolled in the charter school. The identification and evaluation process results in a comprehensive evaluation report. This evaluation report must be based on a variety of assessment tools and strategies which are used to gather relevant functional and developmental information about a child, including information from the parent, and information related to enabling the child to be involved in and progress in the general curriculum.

Gathering information and generating an initial evaluation report on a child requires the involvement of multiple trained professionals and, typically, involves dozens of hours. When the evaluation process is completed, delivering special education services to a child requires the development of an Individualized Education Program (IEP), a written statement describing the special education and related services to be provided. IDEA '97 regulations prescriptively govern: when IEPs must be in effect; how and when IEP meetings must be conducted; who must participate on an IEP team; when and how IEPs must be developed, reviewed, and revised; how agencies are to ensure parent attendance at IEP meetings; and, content of the IEP itself.

It is difficult to portray the burden of these IEP requirements without reading the lengthy IDEA '97 regulations themselves. The IEP regulations alone consist of over 3,000 words. As an example, complying with simply the IEP team member requirements can place a significant burden on a charter school. 34 CFR §300.344 (see "Assistance to states") requires that IEP teams include: the parents of the child; at least one regular education teacher of the child; at least one special education teacher of the child; a representative of the public agency who is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities, is knowledgeable about the general curriculum, and is knowledgeable about the availability of resources of the public agency; an individual who can interpret the instructional implications of evaluation results; at the discretion of the parent or agency, other individuals who have knowledge or special expertise regarding the child; and, if appropriate, the child.

If the purpose of an IEP meeting is consideration of transition services (a coordinated set of activities designed within an outcome-oriented process that promotes movement from school to post-school activities), representatives of agencies likely to be responsible for providing or paying for transition services must also be invited to the IEP meeting. For a charter school to meet these requirements, it would need to have the

above individuals on staff – which is unlikely – or pay for their services under contract. Either solution is an expensive proposition.

Unfortunately, the IDEA '97 burden does not stop at developing an IEP. Once an IEP is developed, it must be implemented. Qualified personnel must provide the special education and related services described in the IEP. A single IEP may require the services of any or all of the following professionals: special education teachers, speech-language pathologists, occupational therapists, physical therapists, social workers, psychologists, school health workers, paraprofessionals, counselors, audiologists, adapted physical education teachers, mental health specialists, and transportation personnel. This list cannot be exhaustive because an individual child's needs determine IEP content. Therefore, the number and type of qualified staff required to implement each IEP are determined on a case-by-case basis.

Where an IEP is implemented presents charter schools with another significant burden. If a child's IEP team determines that the charter school is not the appropriate educational placement for the child (that is, the least restrictive environment in which the child's IEP can be implemented), then what? The author is aware of a charter school in Pennsylvania which is paying for a child's placement in a full-time, segregated special education center miles away from the charter school. One must assume that the child is receiving a free appropriate public education in accordance with his IEP, but it is difficult to understand how that child is benefiting from the unique mission and curriculum of that particular charter school. Most importantly, the cost of the program is more than the charter school receives for that child from the district of residence. Why is the charter school paying for the child's education and not the school district of residence? The answer is because charter schools in Pennsylvania are LEAs. Once a child is enrolled in a charter school which is an LEA, the special education duties under IDEA '97 rest with the charter school until the parent enrolls the child elsewhere (or, of course, the child is removed from the charter school's enrollment for some other reason, such as a law enforcement action).

Even beyond the duties mentioned above, charter schools, as LEAs, have a host of other duties too numerous to explain in detail here. They include complying with: 1) complicated procedural safeguards (for example, gaining parental consent, providing parents with notice, resolving disputes via mediation or due process procedures, and following disciplinary protections); 2) detailed confidentiality requirements; 3) personnel mandates; and, 4) provisions ensuring that children enrolled by their parents in private schools benefit under IDEA '97. As policymakers design charter school laws, they need to consider carefully the implications, outlined above, of crafting legislation which results in charter schools being determined LEAs under IDEA '97.

Policymakers also need to consider the concrete ramifications of special education requirements on specific aspects of charter school laws. In particular, how do special education requirements affect admissions, teacher certification, transportation, and funding provisions in a charter school law? Not addressing these matters in the legislation can have the consequence of "arguing children with disabilities into" charter school laws after-the-fact, and in ways which were never intended.

In Pennsylvania, for example, it would be helpful to address the following issues. First of all, the special education funding formula in Act 22 of 1997 needs to be reviewed in light of over two years of experience. How is the formula working? Is it providing

charter schools with adequate funds to provide necessary special education services? School districts in Pennsylvania receive special education funding based on expected incidence rates, but charter schools receive special education funding from the district of residence based on the actual number of children identified by the charter school (or who were already identified by the district of residence). Is there evidence that charter schools are over-identifying children with disabilities in order to increase funding from school districts? If so, protections need to be developed to prevent charter schools from abusing the identification process in such a manner.

Second, admissions issues need to be clarified regarding children with disabilities. For example, what kinds of "reasonable criteria to evaluate prospective students" can be established which will not have the effect of discriminating against children with disabilities? Third, transportation issues should be addressed. Was it the intent of the Pennsylvania General Assembly that a school district is responsible to provide transportation for a student to a charter school even when the charter school IEP team determines that the student needs very expensive, individualized transportation services? If so, this policy needs to be stated clearly so that there are not disputes between school districts and charter schools over who is responsible for implementing IEP transportation provisions.

Fourth, teacher certification issues need to be clarified. Regarding persons providing special education and related services to children with disabilities, charter schools need clear direction that, under IDEA '97, such persons may not be among a charter school's noncertified staff. Fifth, the issue of charter school IEP teams placing children with disabilities in other school entities needs be addressed. When that happens, who is responsible to pay for such a placement? Is there a way to require charter schools and districts to work together and share the burden in such instances? Sixth, how do state-wide special education-related court orders in Pennsylvania affect charter schools? For example, must charter schools comply with PARC v. Commonwealth requirements, which have been included in Pennsylvania's state special education regulations and standards from which charter schools have been relieved? Finally, are charter schools in Pennsylvania actually LEAs? If the General Assembly intended this to be the case, it would be helpful if the law itself clarified this point. These are the major special education policy issues which Pennsylvania's charter school law leaves unclear.

Whether these issues are addressed by amending Pennsylvania's charter school law or by promulgating regulations is not as important as providing the needed clarification. Pennsylvania's regulatory process has become so cumbersome that it may be politically easier – and take less time – to amend the law than to promulgate regulations. As of February 2000, over two years after enactment of Act 22 of 1997, the Pennsylvania Department of Education had yet to promulgate regulations ensuring that charter schools comply with federal laws and regulations governing children with disabilities, even though Pennsylvania's charter school law specifically requires such regulations to be promulgated. However, regulations may be the only politically realistic way to address charter school special education policy matters in Pennsylvania. The author has heard charter school proponents express fear that opening up the charter school legislation to make needed amendments may provide charter school opponents an opportunity to insert additional amendments which weaken the law and discourage the growth of the charter school movement in general.

Addressing special education matters effectively within charter school legislation may avoid disputes whose consequences outweigh the benefits of ignoring special education in the first place. Additionally, adequately addressing special education matters within charter school legislation may have a positive impact on charter school operators themselves by providing them with early guidance on special education. How charter school laws are written, and the voids or matters neglected in them, are likely to influence how charter school operators approach their responsibilities in practice. Although it was not the focus of this study, how potential charter school operators address special education is an area which could benefit from planning and foresight. The literature and the author's experience indicate that charter school operators do not typically plan for meeting the needs of children with disabilities and for maintaining compliance with federal laws and regulations. This oversight may be related to the lack of clarity regarding special education in charter school laws.

Regardless of a charter school law's treatment of special education policy, a strong recommendation for potential charter school operators – similar to that for state policymakers – is that they should review the research on this topic and involve special education experts in designing a charter school. Waiting until after problems with special education occur to hire staff and learn the complexities of special education is a tactic which should be avoided; one need only look at the Boston Renaissance Charter School's (see Schnaiberg, 1997b) experience to verify the value of proactive planning.

The research literature on charter schools contains abundant advice for legislators, state agency personnel, and charter school planners and operators regarding special education. All of these groups would be wise to become familiar with this advice, whether such groups are involved with policy, practice, or both.

Recommendations for Further Research

A major recommendation for future research is for a study of this type to be conducted or replicated in another state. Since the literature review indicated that most states' charter school laws are vague and problematic regarding special education, a similar study in another state might provide additional support for the findings of this study. For example, have policymakers in other states failed to anticipate the paradoxical outcome of making charter schools autonomous? Have policymakers in other states neglected the research on charter schools and special education? Have they avoided using special education experts? Have they avoided special education issues because they feared that addressing them might stall or derail charter school legislation? Have policymakers been so focused on making charter schools "public schools" that special education was ignored, under the assumption that special education at charter schools will be treated as it is in non-charter public schools? Did policymakers adopt "boilerplate" special education language from other states' charter school laws?

A replication of this study might also produce new findings about how and why special education policy is treated as it is in charter school legislation. The author created and has maintained a case study database in the eventuality that other researchers may wish to replicate this study. The case study database contains, in an organized fashion, all of the verbatim transcripts from interviews and all of the documents/archival records referenced in Chapter IV of the published dissertation.

In addition, any of the findings representing theory grounded in this study's data would be appropriate subjects of further research. For example, did policymakers think that if they ensured that charter schools were nondiscriminatory in admissions and received special education funding, specific special education matters would take care of themselves without additional, specific policy guidance in the regulations? Do legislators typically model legislation after laws in other states, or just in regard to new areas of legislative activity? Why do some policymakers anticipate that not many children with disabilities will attend charter schools? Do legislators typically use the strategies of getting early agreement on language in potentially controversial areas and keeping policymaking confined to a core group in order to avoid conflict and debate? Have policymakers in other states overlooked important special education issues during the legislative debate over charter schools? Do policymakers crafting legislation typically make "satisficing" policy decisions because they know they can rely on regulations to address statutory deficiencies? Do policymakers in states other than Pennsylvania believe that parental choice provides sufficient protection of the rights of children with disabilities? Were the main issues in Pennsylvania's charter school debate typical of the debate in other states? Are there state variables which might predict the main issues in a charter school debate? What experiences do other states have with interpreting charter school laws in unintended ways in order to deal with children with disabilities?

Of particular interest in Pennsylvania would be an investigation into whether and, if so, to what extent, the Ridge Administration calculatingly disengaged longstanding education stakeholders from the public policy process. If it could be shown that the Ridge Administration adopted and implemented such a strategy, it would also be useful to investigate the implications and consequences of this tactic to determine its intended and unintended outcomes, as well as its effectiveness.

Another important area for further research would be to investigate the lack of planning and foresight regarding special education on the part of potential charter school operators. It has been shown that state level policymakers neglected special education issues in Pennsylvania's charter school legislation. Does this encourage similar neglect on the part of those who are planning charter schools and, if so, to what extent?

An additional area for further research pertains to actual practices at charter schools. It would be instructive to investigate actual compliance of charter schools in Pennsylvania with federal laws and regulations governing children with disabilities. As part of such an investigation, the views and motives of parents of children with disabilities could be ascertained, with a focus on their reasons for choosing a charter school and their level of satisfaction, as well as whether or not they perceive choice as a protection of their children's rights.

Another area of further research would be to investigate the attitudes of what McKinney (1998) calls the "charter school establishment" (p. 9). Do the nationally-known, leading proponents of the charter school movement actually view the way children with disabilities are educated in public schools as antithetical to the charter school philosophy? If so, what are their recommendations for reconciling the paradox at play regarding charter schools and special education? Do they see parental choice as a sufficient mechanism to protect the rights of children with disabilities?

Conclusion

The questions addressed in this study are worthy of further inquiry by researchers interested in charter schools, in special education, or in both areas. With the interests of children at heart, neither charter school proponents nor special education advocates have anything to gain by minimizing or avoiding the essential features of either party's educational arena. And yet, it may be that charter schools and special education represent virtually irreconcilable philosophies of deregulation versus over-regulation. Hopefully, it does not have to be an either/or decision. In the committee report accompanying IDEA '97, the United States Congress explicitly stated that it viewed the reauthorization of IDEA

> as an opportunity to review, strengthen, and improve IDEA to better educate children with disabilities and enable them to achieve a quality education by ... ensuring access to the general curriculum and reforms [emphasis added] (House Report No. 105-95, 1997, p. 85).

Congress' clear intent was that children with disabilities not only be part of the general education reform movement but also benefit from it. The challenging and important work ahead for researchers and practitioners is to identify ways both to take advantage of the opportunities in school reform provided by the charter school movement and to protect the educational rights guaranteed to children with disabilities under federal law.

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